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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,694	11/10/2000	Kenneth A. Sumrall	067681.0103	4625

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EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT PAPER NUMBER

3713

DATE MAILED: 02/17/2004

SW

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/709,694

Applicant(s)

SUMRALL ET AL.

Examiner

Kathleen M Christman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) 1-22 and 47-79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-46 and 80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

In response to the Request for Reconsideration and amendment filed 12/01/2003, claims 1-22 and 67-79 remain withdrawn from consideration; claims 23-46 and newly added claim 80 are pending.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/01/2003 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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2. Claims 23-41 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al (US 6064856) in view of Linton (6496681 B1). Regarding claim 23, the method steps of associating the learning activity with at least one student; receiving a release instruction for the learning activity; and providing access to the learning activity for the student associated with the learning activity, is corresponds to Lee et al's description of assigning lesson segments, see col. 5: 27-37. The learning activity including an assessment procedure, claim 23, is referred to as a "quiz subroutine" by Lee et al and is described in col. 7: 10-18, the section further teaches the ability to receive responses to the questions asked, and grading of the quiz based upon the responses. Regarding claim 26, the questions of the quiz are associated with a "particular lesson segment" and further described as having the ability to test the student's comprehension of the learning material. Having a student comprehend the learning material presented to them is an inherent objective of the teaching process. The mastery level, as in claim 27, is described by Lee et al as a "threshold" value and is taught at col. 7: 32-35 and col. 10: 1-5. The learning activities include procedures; these procedures may include either assessment procedures of content procedures, as in claims 29 and 30, see col. 4: 22-39. Regarding claims 25 and 28, Lee et al teaches the use of color-coding in col. 10: 26-32.

Lee et al fails to specifically teach: that the assessment procedure contains both an objective and a subjective procedure, and that the subjective responses are forwarded to a teacher to grade (as in claims 23, 31, 39, and 43) and that the score is provided to at least one of the teacher of the student, a parent of the student, and the student (as in claims 24, 32). Concerning the latter, Lee et al does teach that the score is recorded in the student profile, which a teacher is capable of reviewing. Lee further fails to specifically teach "providing a student a plurality of options associated with a class, the options comprising a grade summary option, the grade summary option providing selective access to information associated with a plurality of released learning activities, the information including: release date, due date, and status of each learning activity and any response given by the student and any associated remarks provided by a teacher of the student" as in claims 23, 31, 39, and 43 (Note: these limitations were added by the amendment filed 12/01/2003).

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Linton teaches a learning system and method which includes each of the above limitations.

Linton teaches the use of objective questions in through the use of multiple-choice questions, and the use of a subjective procedure through the use of essay or short-answer type questions, see col. 7: 28-32.

The answer to the questions being forwarded for review is taught at col. 9: 48-50. The ability for the user to see the result of their quiz is taught at col. 9: 55+. The ability for a user to have various options regarding a class is taught in col. 6: 64-67. This interface including a grade summary report, were the grades summary report includes release date, due date, status of each lesson, any response given by the student, and any associated remarks (feedback) given by the students teacher is taught in at least col. 7: 42-47, col. 7: 65 – col. 8: 8, col. 9: 54-61, and col. 10: 58-65.

It would have been obvious to one of ordinary skill in the art to incorporate the question, grading and reporting features of the Linton system into the Lee et al system so as to provide a student with detailed feedback concerning their progress in an educational course.

Claims 31-38 are a system corresponding in scope to claims 23-30, respectively, and are rejected for the same reasons. The elements of claims 39-41 and 43-45 have been addressed above, and are rejected for the same reasons.

3. Claims 42 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al (US 6064856) in view Linton (US 6496681 B1) further in view of Oh (US 6190178 B1). The combination of Lee et al and Linton teaches all aspects of the claimed invention as shown above except for "accessing the learning activity through a device comprising no system-specific software or hardware, the device operable to display Hypertext Markup language (HTML)".

Oh clearly shows this limitation. In fact the Oh patent is designed to specific provide this type of system. Although Oh does not specifically mention HTML it is old and well known that web pages are commonly written in HTML. It would have been obvious to one of ordinary skill in the art to implement either the Lee et al or Linton system on the Oh system so as to increase the ability for a user to conveniently use the system.

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4. Claim 80 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al (US 6064856) in view of Linton (6496681 B1) further in view of Cook et al (US 5727950). Claim 80 includes all limitations of claim 31, the rejection of which is based upon Lee et al and Linton as shown above in paragraph 2. In addition to the above Linton teaches verify a user identification and associated password provided by the at least one student (Figure 4: 410), a communication option which results in the presenting options to the at least one student allowing them to communicate electronically with another student (the chat discussion, see col. 7: 62-65), a mail option which results in presentation of a virtual mail to the user (col. 7: 12-14). The features of the grade summary including the name of the assignment, a description, of the assignment, a grade, and standards for the assignment, are shown in at least Figure 8-10.

Neither Lee et al nor Linton teaches that the student is given a calendar option where the calendar option results in presenting the student with a calendar including a listing of events associated with the student.

Cook et al teaches this feature starting in col. 28, line 64 and col. 43: line 57+. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the calendar features of Cook et al with the educational systems of Lee et al and Linton so as to provide the student with an organized task list of the assignments given them, as suggested by Cook et al.

Lastly the examiner notes that the above references do not teach the grade summary including the student's overall grade in an associated course and the course average. The examiner takes Official Notice that this is an old and well-known process in the art of education. Teachers are known to frequently provide their students with their own grade (such as a test, quiz, or overall score) and the know class average so that a student may gauge their progress against that of their classmates. Do such is known to encourage students to perform better or give students a sense of self-confidence when they perform well. For these reasons it would have been obvious to one of ordinary skill in the art to allow the students of the Lee et al, Linton or Cook systems to view their overall scores and the class average.

Response to Arguments

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5. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections. The mere statement that the newly added limitation is not taught by the references is not sufficient. The examiner believes that all newly added limitations and limitations of the newly added claim have been addressed in the rejections of the claims above.

Further the examiner notes that the applicant has failed to traverse the old and well-known statement teaching "that web pages are commonly written in HTML." Accordingly, the finding is now considered admitted prior art in accordance with MPEP 2144.03, subsection C.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- a. Lotvin et al (US 5907831) teaches a system where students are allowed to shop on-line and are assigned lessons by either a teacher or parent
 - b. George et al (US 5978648) teaches a system where teachers assign multiple tasks to students, each of which is dated, and the student is capable of viewing rubrics and sample answers for the assignments
 - c. Ferris (US 5344326) cited as support for the official notice taken above
 - d. Carlile et al (US 6164974) teaches a system where students are assigned tasks, assessed in their knowledge and given the ability to review course objectives, descriptions, etc.
 - e. Casey-Cholakis et al (US 6438353 B1) teaches an on-line training system where user can access book stores, educational materials, chat rooms, etc.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on (703) 308-1327. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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